
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2992 Session of
2004

INTRODUCED BY FLEAGLE, MAITLAND, BUNT, O'NEILL, CAPPELLI,
CRAHALLA, PICKETT, WATSON, SATHER AND ROSS, NOVEMBER 12, 2004

REFERRED TO COMMITTEE ON JUDICIARY, NOVEMBER 12, 2004

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 advance directive for health care.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 5402(a) of Title 20 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 5402. Legislative findings and intent.

9 (a) Findings.--The General Assembly finds that all competent
10 adults have a qualified right to control decisions relating to
11 their own medical care. This right is subject to certain
12 interests of society, such as the maintenance of ethical
13 standards in the medical profession and the preservation and
14 protection of human life. Modern medical technological
15 procedures make possible the prolongation of human life beyond
16 natural limits. The application of some procedures to an
17 individual suffering a difficult and uncomfortable process of
18 dying may cause loss of patient dignity and secure only

1 continuation of a precarious and burdensome prolongation of
2 life. A registry of advance health care directives, accessible
3 by all physicians, furthers a competent adult's right to control
4 medical decisions.

5 * * *

6 Section 2. Section 5403 of Title 20 is amended by adding a
7 definition to read:

8 § 5403. Definitions.

9 The following words and phrases when used in this chapter
10 shall have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 * * *

13 "Department." The Department of Health of the Commonwealth.

14 * * *

15 Section 3. Section 5404 of Title 20 is amended by adding a
16 subsection to read:

17 § 5404. Declaration.

18 * * *

19 (e) Advance health care directive registry.--

20 (1) The department shall establish an advance health
21 care directive registry containing the information in any
22 declaration submitted pursuant to paragraph (2).

23 (2) A declarant may provide a declaration to the
24 department for inclusion in the advance health care directive
25 registry.

26 (3) Information in the registry shall be made available
27 to attending physicians on a 24-hour basis, including access
28 by electronic means.

29 (4) Information in the registry shall be protected from
30 public access, shall only be accessible to physicians and

1 shall not be subject to access under the act of June 21, 1957
2 (P.L.390, No.212), referred to as the Right-to-Know Law.

3 Section 4. Sections 5405 and 5406(b) of Title 20 are amended
4 to read:

5 § 5405. When declaration becomes operative.

6 (a) General rule.--A declaration becomes operative when:

7 (1) a copy is:

8 (i) provided to the attending physician; or

9 (ii) obtained from the registry established in

10 section 5404(e) (relating to declaration); and

11 (2) the declarant is determined by the attending
12 physician to be incompetent and in a terminal condition or in
13 a state of permanent unconsciousness.

14 When the declaration becomes operative, the attending physician
15 and other health care providers shall act in accordance with its
16 provisions or comply with the transfer provisions of section
17 5409 (relating to unwillingness to comply; transfer of
18 declarant).

19 (b) Duty of attending physician.--An attending physician
20 shall make a reasonable effort to determine if a patient has
21 executed a declaration. An attending physician shall be presumed
22 to have made a reasonable effort if he has contacted the
23 registry established in section 5404(e).

24 § 5406. Revocation.

25 * * *

26 (b) Medical record.--The attending physician or other health
27 care provider shall make the revocation a part of the
28 declarant's medical record[.] and shall notify the department.
29 Upon notification of a revocation under this section, the
30 department shall record the revocation and remove the

1 declaration from the registry established in section 5404(e)
2 (relating to declaration).

3 Section 5. This act shall take effect in 60 days.